

REMARKS:

By the foregoing amendment, Applicant responds fully to the Office Action mailed October 15, 2004.

The abstract of the disclosure is objected to because of a misspelling. By the 5 foregoing amendment, Applicant has amended the abstract of the disclosure to correct the misspelling.

The disclosure is objected to for the reasons stated in the Office Action starting on page 2, line 3. By the foregoing amendment, applicant has amended the disclosure to overcome the objections. Other typographical errors, as provided in the amendments to 10 the disclosure, have been corrected by the foregoing amendment as well. No new matter has been added to the disclosure by the present amendment.

Claims 1, 9 and 22 have been objected to because of the reasons stated on page 2 of the Office Action. Claims 1-19, 21 and 22 stand rejected by the present Office Action. Claim 20 has been objected to by the present Office Action. By the present amendment, 15 Claims 1, 9, 12 and 21 have been amended, Claims 4, 6 and 22 have been cancelled, and Claims 23-27 have been newly added. A discussion of each Claim follows.

Claim 1 is objected to because of the reason provided on page 2 of the Office Action. Claim 1 has been amended by the present amendment to change the word "or" to --of-- to correct the typographical error in line 12.

20 Claim 1 stands rejected under 35 U.S.C. 102(b) as being anticipated by Briggs et al. (US 179,764), by Gelineau (US 5,800,564), by Kegel (FR 2 708 848 A1), by Lacroix (US 5,913,901) and by Buschman (US 1,030,383). Claim 1 has been amended by the present amendment to more particularly point out and distinctly claim the present invention.

More particularly, Claim 1 has been amended to recite that the first end surface is concave and has a first end hole through the first end base in a direction generally parallel to the first end longitudinal axis. Further, Claim 1 has been amended to recite that the second end has a convex surface, a slot is through the second end in a direction generally parallel to the second end longitudinal axis and a second end hole is through the second end base in a direction generally perpendicular to the second end longitudinal axis.

5      parallel to the second end longitudinal axis and a second end hole is through the second end base in a direction generally perpendicular to the second end longitudinal axis.

Further, Claim 1 has been amended to recite that the connector comprises a pin having a connector pin hole and a fastener for being inserted through the first end hole and the slot and into the connector pin hole. Lastly, Claim 1 has been amended to recite that the

10     fastener is insertable through the first end hole and the slot and into the connector pin hole while the first end remains stationary with respect to the second end.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Carbide Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).” See MPEP §2131 8<sup>th</sup> Ed., Rev. 1, (February 2003).

Claim 1, as amended, is not anticipated by Briggs. Briggs fails to show each and every element of amended Claim 1. Specifically, Briggs does not show a first end with a concave surface, and does not show a first end hole through the first end base. Briggs also fails to show a slot through the second end and a second end hole. Further, Briggs fails to

20     show a connector comprising a pin and a fastener. Since Briggs fails to show each and every limitation of Claim 1, as amended, it is believed that amended Claim 1 is patentable over Briggs.

Claim 1, as amended, is not anticipated by Gelineau. Gelineau fails to show each and every element of amended Claim 1. Specifically, Gelineau fails to show a first end with a concave surface, and does not show a first end hole through the first end base in a direction generally parallel to the first end longitudinal axis. Gelineau also fails to show a slot through the second end in a direction generally parallel to the second end longitudinal axis. Further, Gelineau fails to show a connector comprising a pin and a fastener. Since Gelineau fails to show each and every element of amended Claim 1, it is believed that amended Claim 1 is patentable over Gelineau.

Claim 1, as amended, is not anticipated by Kegel. Kegel fails to show each and every element of amended Claim 1. Specifically, Kegel fails to show a first end with a concave surface and a first end hole through the first end base in a direction generally parallel to the first end longitudinal axis. Kegel also fails to show a second end convex surface and a slot through the second end in a direction generally parallel to the second end longitudinal axis. Further, Kegel fails to show a connector comprising a pin and a fastener, wherein the pin is inserted through the first end hole and the slot and into a connector pin hole to connect the first end and second end in a selected angular alignment. Since Kegel fails to show each and every element of amended Claim 1, it is believed that amended Claim 1 is patentable over Kegel.

Claim 1, as amended, is not anticipated by Lacroix. Lacroix fails to show each and every element of amended Claim 1. Specifically, Lacroix fails to show a first end with a hole through a concave surface that is generally parallel to the first end longitudinal axis. Further, Lacroix fails to show a fastener for being inserted through the first end hole and through a slot and into the hole in the connector pin to connect the first

end and second end. Since Lacroix fails to show each and every element of amended Claim 1, it is believed that amended Claim 1 is patentable over Lacroix.

Claim 1, as amended, is not anticipated by Buschman. Buschman fails to show each and every element of amended Claim 1. Specifically, Buschman shows a hole in an

5 end of a handle and fails to show a hole through the handle as required by amended Claim 1. Further, Buschman shows that the screw is secured in the handle (Page 2, line 31) and fails to show the fastener is capable of being inserted through the handle as required by amended Claim 1. Still further, Buschman teaches that the screw is turned by turning the handle (Page 2, line 43). In contrast, amended Claim 1 recites that when the  
10 fastener is inserted through the first end hole and slot and into the connector pin hole, the first end remains stationary with respect to the second end. Since Buschman fails to show each and every limitation of amended Claim 1, it is believed that amended Claim 1 is patentable over Buschman.

It is believed that amended Claim 1 is patentable over each of the cited references.

15 It is therefore believed that amended Claim 1 is now allowable.

Claims 2 and 3 stand rejected under 35 U.S.C. 102(b) as being anticipated by Briggs, Gelineau, Kegel, Lacroix and Buschman. Claims 2 and 3 depend from amended Claim 1, which is now believed to be allowable. It is therefore believed that Claims 2 and 3 are now allowable as well.

20 Claim 4 stands rejected under 35 U.S.C. 102(b) as being anticipated by Briggs, Gelineau, Kegel, Lacroix and Buschman. Claim 4 has been cancelled by the present amendment.

Claim 5 stands rejected under 35 U.S.C. 102(b) as being anticipated by Briggs, Gelineau, Kegel and Lacroix, and under 35 U.S.C. 103(a) as being unpatentable over Buschman. Claim 5 depends from amended Claim 1, which is now believed to be allowable. It is therefore believed that Claim 5 is now allowable as well.

5 Claim 6 stands rejected under 35 U.S.C. 102(b) as being anticipated by Buschman. Claim 6 has been cancelled by the present amendment.

Claim 7 stands rejected under 35 U.S.C. 102(b) as being anticipated by Buschman. Claim 7 depends from amended Claim 1, which is now believed to be allowable. It is therefore believed that Claim 7 is allowable as well.

10 Claim 8 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Buschman. Claim 8 depends from amended Claim 1, which is now believed to be allowable. It is therefore believed that Claim 8 is allowable as well.

Claim 9 is objected to because of the reason stated on page 2 of the Office Action. Claim 9 has been amended by replacing the word “concave” with --convex-- in line 14 to 15 correct a typographical error.

Claim 9 stands ejected under 35 U.S.C. 102(b) as being anticipated by Buschman. Claim 9 has been amended by the present amendment to more particularly point out and distinctly claim the present invention. More specifically, Claim 9 has been amended to further recite that the first end is stationary with respect to the second end when the 20 fastener is being inserted into the pin. Buschman clearly states that it is necessary “only to turn the handle 30, and with it the screw 29” (Page 2, lines 43 and 44). Buschman shows the exact opposite of the limitation recited in amended Claim 9. Since Buschman fails to show each and every limitation of amended Claim 9, and in fact teaches away

from amended Claim 9, Buschman does not anticipate amended Claim 9. It is therefore believed that amended Claim 9 is now allowable.

Claim 10 stands ejected under 35 U.S.C. 102(b) as being anticipated by Buschman. Claim 10 depends from amended Claim 9, which is now believed to be 5 allowable. Further, Claim 10 recites that the first end comprises a collar and the first prosthetic component comprises a pylon. No prosthetic pylon is shown or suggested by Buschman. For these reasons, it is believed that Claim 10 is now allowable.

Claim 11 stands ejected under 35 U.S.C. 102(b) as being anticipated by Buschman. Claim 11 depends from amended Claim 9, which is now believed to be 10 allowable. Further, Claim 11 recites that the second end comprises a receiver and the prosthetic comprises a pyramidal adapter. No pyramidal adapter is shown in Buschman. For these reasons, it is believed that Claim 11 is now allowable.

Claim 12 stands ejected under 35 U.S.C. 102(b) as being anticipated by Buschman. Claim 12 depends from amended Claim 9, which is now believed to be 15 allowable. Further, Claim 12 has been amended by the present amendment to more particularly point out and distinctly claim the present invention. More specifically, Claim 12 has been amended to recite that the first end has an interior surface at an end of the first hole and that the bolt has a head that abuts the interior surface. Buschman fails to show an interior surface upon which a head of a bolt can abut. Buschman therefore fails 20 to show each and every limitation of amended Claim 12. Claim 12 is believed to be allowable for these reasons.

Claim 13 stands ejected under 35 U.S.C. 102(b) as being anticipated by Buschman. Claim 13 depends from amended Claim 9, which is now believed to be allowable. It is therefore believed that Claim 13 is now allowable as well.

Claims 14 -16 stand ejected under 35 U.S.C. 103(a) as being unpatentable over 5 Buschman. Claims 14-16 depend from amended Claim 9, which is now believed to be allowable. It is therefore believed that Claims 14-16 are allowable as well.

Claim 17 stands rejected based on 35 U.S.C. 102(b) as being anticipated by Lacroix. Claim 17 comprises a pylon and a collared clamp that are removeably connected to the pylon. No pylon or collared clamp is shown in Lacroix. A claim is only anticipated 10 if each and every element of the Claim is shown by the reference. Since Lacroix fails to show each and every limitation of Claim 17, Claim 17 is not anticipated by Lacroix. It is therefore believed that Claim 17 is now allowable, without amendment.

Claims 18 and 19 stand rejected based on 35 U.S.C. 102(b) as being anticipated by Lacroix. Claims 18 and 19 depend from Claim 17, which is believed to be allowable. 15 It is therefore believed that Claims 18 and 19 are allowable as well.

Claim 20 is objected to as being dependent upon a rejected base claim. The Examiner states that Claim 20 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 26 has been newly added by the present amendment. Original Claim 20 has 20 been rewritten into independent form including the limitations of the base Claim 17 and intervening Claim 18. Since the Examiner has stated that such a Claim would be allowable, it is believed that Claim 26 is allowable.

Original Claim 20 has remains pending in the present application, as a dependent claim depending from Claim 17. It is believed that Claim 20 is now allowable.

Claim 21 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Gelineau or Lacroix, in view of Becker et al. (US 5,755,812). In order for a claim to be

5 obvious under 35 U.S.C. 103, the references must teach or suggest all the claim limitations. See MPEP 8<sup>th</sup> Ed., Rev. 1, §706.02(j), (February 2003). Further, “[t]o establish *prima facie* obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).” See MPEP 8<sup>th</sup> Ed., Rev. 1 §2143.03, (February 2003). It should therefore follow

10 by negative implication that where each claim limitation is not shown, the Examiner has failed to demonstrate *prima facie* obviousness.

Claim 21 has been amended by the present amendment to more particularly point out and distinctly claim the present invention. More specifically, Claim 21 has been amended to add the step of providing a prosthetic component, to add the step of providing

15 a coupler having a fastener within the first end and a hole in the second end for receiving a pin, wherein the fastener is turnable into the pin, to add the step of turning the fastener into the pin and to add the step of connecting the prosthetic component to the first end of the coupler to conceal the fastener.

None of the patents cited by the Examiner show a fastener within the first end that

20 is turnable into a pin that is received within the second end. Since the cited references fail to show each and every limitation of amended Claim 21, a *prima facie* case of obviousness cannot be demonstrated. It is therefore believed that amended Claim 21 is

not obvious in view of Gelineau or Lacroix, in view of Becker. Further, it is believed that amended Claim 21 is now allowable.

Claim 22 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Gelineau or Lacroix, in view of Becker. Claim 22 has been cancelled by the present  
5 amendment.

Claim 23 has been newly added by the present amendment. Claim 23 depends from amended Claim 21, which is believed to be allowable. Claim 23 is further believed to be novel in view of the cited references. For these reasons, it is believed that new Claim 23 is allowable.

10 Claim 24 has been newly added by the present amendment. Claim 23 depends from amended Claim 21, which is believed to be allowable. Claim 24 is further believed to be novel in view of the cited references. For these reasons, it is believed that new Claim 24 is allowable.

Claim 25 has been newly added by the present amendment. Claim 25 depends  
15 from Claim 17, which is now believed to be allowable. Further, it is believed that none of the references cited by the Examiner shows each of the limitations of new Claim 25. It is therefore believed that new Claim 25 is allowable.

Claim 26 is discussed above.

Claim 27 has been added by the present amendment. Claim 27 is believed to be  
20 patentable over the references cited by the Examiner.

In summary, Applicant asserts that the present application containing claims 1-3, 5, 7-21 and 23-27 is in condition for allowance. Favorable action to that end respectfully requested.

Signed at Fond du Lac, Wisconsin, this 14<sup>th</sup> day of January, 2005.

Respectfully Submitted,

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